

SECOND REGULAR SESSION

# HOUSE BILL NO. 1360

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DENISON (Sponsor), CUNNINGHAM (145), MCGHEE,  
SCHLOTTACH, CHINN AND HENKE (Co-sponsors).

Read 1st time January 12, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4094L.01I

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### AN ACT

To repeal section 304.155, RSMo, and to enact in lieu thereof two new sections relating to motor vehicles.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 304.155, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 304.155 and 1, to read as follows:

304.155. 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours, or immediately if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours, or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 this subdivision to a place of safety until the owner or owner's representative has had a  
16 reasonable opportunity to contact a towing company of choice;

17 (c) Any state highway other than an interstate highway or freeway in an urbanized area,  
18 left unattended for more than ten hours; or

19 (d) Any state highway other than an interstate highway or freeway outside of an  
20 urbanized area, left unattended for more than forty-eight hours; provided that commercial motor  
21 vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be  
22 removed under this subdivision to a place of safety until the owner or owner's representative has  
23 had a reasonable opportunity to contact a towing company of choice;

24 (2) Any unattended abandoned property illegally left standing upon any highway or  
25 bridge if the abandoned property is left in a position or under such circumstances as to obstruct  
26 the normal movement of traffic where there is no reasonable indication that the person in control  
27 of the property is arranging for its immediate control or removal;

28 (3) Any abandoned property which has been abandoned under section 577.080, RSMo;

29 (4) Any abandoned property which has been reported as stolen or taken without consent  
30 of the owner;

31 (5) Any abandoned property for which the person operating such property is arrested for  
32 an alleged offense for which the officer is required to take the person into custody and where  
33 such person is unable to arrange for the property's timely removal;

34 (6) Any abandoned property which due to any other state law or local ordinance is  
35 subject to towing because of the owner's outstanding traffic or parking violations;

36 (7) Any abandoned property left unattended in violation of a state law or local ordinance  
37 where signs have been posted giving notice of the law or where the violation causes a safety  
38 hazard; or

39 (8) Any abandoned property illegally left standing on the waters of this state as defined  
40 in section 306.010, RSMo, where the abandoned property is obstructing the normal movement  
41 of traffic, or where the abandoned property has been unattended for more than ten hours or is  
42 floating loose on the water.

43 2. The state transportation department may immediately remove any abandoned,  
44 unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal  
45 property from the roadway of any state highway if the abandoned property, cargo or personal  
46 property is creating a traffic hazard because of its position in relation to the state highway. In  
47 the event the property creating a traffic hazard is a commercial motor vehicle, as defined in  
48 section 302.700, RSMo, the department's authority under this subsection shall be limited to  
49 authorizing a towing company to remove the commercial motor vehicle to a place of safety,  
50 except that the owner of the commercial motor vehicle or the owner's designated representative

51 shall have a reasonable opportunity to contact a towing company of choice. The provisions of  
52 this subsection shall not apply to vehicles transporting any material which has been designated  
53 as hazardous under Section 5103(a) of Title 49, U.S.C.

54         3. Any law enforcement agency authorizing a tow pursuant to this section in which the  
55 abandoned property is moved from the immediate vicinity shall complete a crime inquiry and  
56 inspection report. Any state or federal government agency other than a law enforcement agency  
57 authorizing a tow pursuant to this section in which the abandoned property is moved away from  
58 the immediate vicinity in which it was abandoned shall report the towing to the state highway  
59 patrol or water patrol within two hours of the tow along with a crime inquiry and inspection  
60 report as required in this section. Any local government agency, other than a law enforcement  
61 agency, authorizing a tow pursuant to this section where property is towed away from the  
62 immediate vicinity shall report the tow to the local law enforcement agency within two hours  
63 along with a crime inquiry and inspection report.

64         4. Neither the law enforcement officer, government agency official nor anyone having  
65 custody of abandoned property under his direction shall be liable for any damage to such  
66 abandoned property occasioned by a removal authorized by this section or by ordinance of a  
67 county or municipality licensing and regulating the sale of abandoned property by the  
68 municipality, other than damages occasioned by negligence or by willful or wanton acts or  
69 omissions.

70         5. The owner of abandoned property removed as provided in this section or in section  
71 304.157 shall be responsible for payment of all reasonable charges for towing and storage of  
72 such abandoned property as provided in section 304.158.

73         6. Upon the towing of any abandoned property pursuant to this section or under authority  
74 of a law enforcement officer or local government agency pursuant to section 304.157, the law  
75 enforcement agency that authorized such towing or was properly notified by another government  
76 agency of such towing shall promptly make an inquiry with the national crime information center  
77 and any statewide Missouri law enforcement computer system to determine if the abandoned  
78 property has been reported as stolen and shall enter the information pertaining to the towed  
79 property into the statewide law enforcement computer system. If the abandoned property is not  
80 claimed within ten working days of the towing, the tower who has online access to the  
81 department of revenue's records shall make an inquiry to determine the abandoned property  
82 owner and lienholder, if any, of record. In the event that the records of the department of  
83 revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply  
84 with the requirements of subsection 3 of section 304.156. If the tower does not have online  
85 access, the law enforcement agency shall submit a crime inquiry and inspection report to the  
86 director of revenue. A towing company that does not have online access to the department's

87 records and that is in possession of abandoned property after ten working days shall report such  
88 fact to the law enforcement agency with which the crime inquiry and inspection report was filed.  
89 The crime inquiry and inspection report shall be designed by the director of revenue and shall  
90 include the following:

91 (1) The year, model, make and property identification number of the property and the  
92 owner and any lienholders, if known;

93 (2) A description of any damage to the property noted by the officer authorizing the tow;

94 (3) The license plate or registration number and the state of issuance, if available;

95 (4) The storage location of the towed property;

96 (5) The name, telephone number and address of the towing company;

97 (6) The date, place and reason for the towing of the abandoned property;

98 (7) The date of the inquiry of the national crime information center, any statewide  
99 Missouri law enforcement computer system and any other similar system which has titling and  
100 registration information to determine if the abandoned property had been stolen. This  
101 information shall be entered only by the law enforcement agency making the inquiry;

102 (8) The signature and printed name of the officer authorizing the tow; [and]

103 (9) The name of the towing company, the signature and printed name of the towing  
104 operator, and an indicator disclosing whether the tower has online access to the department's  
105 records; **and**

106 (10) Any additional information the director of revenue deems appropriate.

107 7. One copy of the crime inquiry and inspection report shall remain with the agency  
108 which authorized the tow. One copy shall be provided to and retained by the storage facility and  
109 one copy shall be retained by the towing facility in an accessible format in the business records  
110 for a period of three years from the date of the tow or removal.

111 8. The owner of such abandoned property, or the holder of a valid security interest of  
112 record, may reclaim it from the towing company upon proof of ownership or valid security  
113 interest of record and payment of all reasonable charges for the towing and storage of the  
114 abandoned property.

115 9. Any person who removes abandoned property at the direction of a law enforcement  
116 officer or an officer of a government agency where that agency's real property is concerned as  
117 provided in this section shall have a lien for all reasonable charges for the towing and storage of  
118 the abandoned property until possession of the abandoned property is voluntarily relinquished  
119 to the owner of the abandoned property or to the holder of a valid security interest of record.  
120 Any personal property within the abandoned property need not be released to the owner thereof  
121 until the reasonable or agreed charges for such recovery, transportation or safekeeping have been  
122 paid or satisfactory arrangements for payment have been made, except that any medication

123 prescribed by a physician shall be released to the owner thereof upon request. The company  
124 holding or storing the abandoned property shall either release the personal property to the owner  
125 of the abandoned property or allow the owner to inspect the property and provide an itemized  
126 receipt for the contents. The company holding or storing the property shall be strictly liable for  
127 the condition and safe return of the personal property. Such lien shall be enforced in the manner  
128 provided under section 304.156.

129       10. Towing companies shall keep a record for three years on any abandoned property  
130 towed and not reclaimed by the owner of the abandoned property. Such record shall contain  
131 information regarding the authorization to tow, copies of all correspondence with the department  
132 of revenue concerning the abandoned property, including copies of any online records of the  
133 towing company accessed and information concerning the final disposition of the possession of  
134 the abandoned property.

135       11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard  
136 motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall  
137 notify the local law enforcement agency where the repossession occurred within two hours of  
138 the repossession and shall further provide the local law enforcement agency with any additional  
139 information the agency deems appropriate. The local law enforcement agency shall make an  
140 inquiry with the national crime information center and the Missouri statewide law enforcement  
141 computer system and shall enter the repossessed vehicle into the statewide law enforcement  
142 computer system.

143       12. Notwithstanding the provisions of section 301.227, RSMo, any towing company who  
144 has complied with the notification provisions [in section 304.156 including notice that any  
145 property remaining unredeemed after thirty days may be sold as scrap property may then dispose  
146 of such property as provided in this subsection. Such sale shall only occur if at least thirty days  
147 has passed since the date of such notification, the abandoned property remains unredeemed with  
148 no satisfactory arrangements made with the towing company for continued storage, and the  
149 owner or holder of a security agreement has not requested a hearing as provided in section  
150 304.156. The towing company may dispose of such abandoned property by selling the property  
151 on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed  
152 salvage dealer for destruction purposes only. The towing company shall forward a copy of the  
153 bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of  
154 revenue within two weeks of the date of such sale] **of this section and section 304.156,**  
155 **excluding subdivision (1) of subsection 1 and subsection 7 of section 304.156, shall give**  
156 **notification to the last owner of record and any lienholder of the vehicle that such vehicle**  
157 **may be sold for parts, excluding major component parts, or scrap metal after the property**  
158 **remains unredeemed after the ten-day notification period to the last known owner and any**

159 lienholder of record with the department of revenue. Such notification shall be sent by  
160 certified mail, return receipt requested. The notification form, approved by the director  
161 of revenue, shall state that if the property remains unredeemed with no satisfactory  
162 arrangements made with the towing company for continued storage and the owner or  
163 holder of a security agreement has not requested a hearing under section 304.156, the  
164 towing company may dispose of such property after the ten-day period by selling the  
165 property on a bill of sale as prescribed by the director of revenue to a scrap metal operator  
166 or licensed salvage dealer. The towing company shall keep a record of each such vehicle sold  
167 [for destruction] for three years [that] **and such records** shall be available for inspection by law  
168 enforcement and authorized department of revenue officials. The record shall contain the year,  
169 make, identification number of the property, date of sale, and name of the purchasing scrap metal  
170 operator or licensed salvage dealer and copies of all notifications **and certified mail receipts**  
171 issued by the towing company as required in this [chapter] **subsection**. Scrap metal operators  
172 or licensed salvage dealers shall keep a record of the purchase of such property as provided in  
173 section 301.227, RSMo. Scrap metal operators and licensed salvage dealers [may obtain a junk  
174 certificate as provided in section 301.227, RSMo, on vehicles purchased on a bill of sale  
175 pursuant to this section] **shall not be issued a junking certificate or certificate of ownership**  
176 **for property by the director of revenue under this subsection.**

**Section 1. The registered owner or the owner's agent claiming abandoned property**  
2 **under chapter 304, RSMo, shall present a copy of the most recent validated registration**  
3 **form or a valid license with the name of the registered owner that can be compared with**  
4 **a validated registration form if such form is contained in the abandoned property to the**  
5 **appropriate law enforcement agency or towing company before the property is released.**

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